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Attorneys at Law

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Mr. Mark Gowdy
Water Resources Control Engineer
Central Valley Regional Water Quality Control Board
11020 sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6144

Re: Stockton Deep Water Ship Channel Dissolved Oxygen TMDL and Basin Plan
Amendment Public Review Draft Staff Report

Dear Mr. Gowdy:

This letter is to confirm a conversation Mr. Lowell Ploss of the San Joaquin River Group Authority had with you yesterday regarding the mitigation responsibility of the U.S. Corps of Engineers (USACE) versus the dissolved oxygen objective states in the Basin Plan Amendment.

It is our understanding the mitigation obligation the USACE is to turn on its existing aeration device to maintain the dissolved oxygen level within the Deep Water Ship Channel (DWSC) at 0.2 mg/L above the background conditions within the DWSC during the period of 1 September through 30 November. The trigger for this action is anytime the dissolved oxygen level in the DWSC falls below 5.2 mg/L. At the time this mitigation was established it was estimated that the maximum daily oxygen contribution by the USACE would be approximately 2,500 pounds.

The Basin Plan establishes the dissolved oxygen objective to be 5.0 mg/L throughout the year, except during 1 September through 30 November when the objective is 6.0 mg/L. The Basin Plan, if implemented, would require the parties to provide direct or alternate mitigation to maintain the dissolved oxygen level in the DWSC above 6.0 mg/L compared to 5.2 mg/L required of the USACE.

The draft Staff Report indicates the Central Valley Regional Water Quality Control Board has limited jurisdiction over federal agencies such as the USACE. In this particular instance the Basin Plan, if implemented, would relieve the USACE of its mitigation responsibility. The USACE should be required to provide mitigation toward the new objective at a rate no less than 2,500 pounds per day.

Please accept this letter as a supplement to the comments on the draft Staff Report that were submitted by the SJRGA on May 11, 2004.

Very truly yours,

O'Laughlin & Paris LLP

By: 
Tim O'Laughlin

2571 California Park Dr., Suite 210
Chico, California 95928
www.olaughlinandparis.com

530.899.9755 tel
530.899.1367 fax